

1. Sections 502(a) of the CAA, 42 U.S.C. § 7661a(a), and 40 C.F.R. § 70.7(b) provide that, after the effective date of any permit program approved or promulgated under Title V of the CAA, no source subject to Title V may operate except in compliance with a Title V permit.
2. Section 502(a) of the Act, 42 U.S.C. § 7661a(a), among other things, makes the prohibition on operating without a Title V operating permit applicable to sources subject to standards or regulations under section 7411 or 7412 of the Act.
3. 40 C.F.R. § 70.1(b) provides that all sources subject to the Part 70 regulations shall have a permit to operate that assures compliance by the source with all applicable requirements, as defined in 40 C.F.R. § 70.2.
4. Section 503(c) of the CAA, 42 U.S.C. § 7661b(c), requires any person required to have a permit under Title V to timely submit an application for a permit.
5. 40 C.F.R. § 70.5(a) provides that an owner or operator shall submit a timely and complete permit application in accordance with Part 70 requirements.
6. On November 14, 1995, U.S. EPA granted interim approval to 326 Indiana Administrative Code (IAC) 2-7 as Indiana's Title V Operating Permit Program. 60 Fed. Reg. 57188 (November

14, 1995). U.S. EPA fully approved the program on December 4, 2001, (66 Fed. Reg. 62969). The program became effective on November 30, 2001.

7. 326 IAC 2-7-2 (a) (2) requires that any source (including an area source) that is subject to a standard, limitation or other requirement under Section 111 of the Clean Air Act (Part 70 source) must apply for a Part 70 permit. 326 IAC 2-7-2 (b)(1) exempts such sources that are not major sources.

8. 326 IAC 2-7-3 prohibits a Part 70 source from operating after the time that it is required to submit a timely and complete Title V application to the State of Indiana.

9. 326 IAC 2-7-4 requires each Part 70 source to submit a timely and complete Title V permit application to the State of Indiana.

10. The New Source Performance Standards (NSPS) for secondary brass and bronze production plants at 40 C.F.R. Part 60, Subpart M, applies to the following affected facilities, which commenced construction or modification after June 11, 1973, in secondary brass and bronze production plants: electric furnaces with a production capacity of 1,000 kg (2205 lb). The NSPS regulations are discussed in Section 111 of the Clean Air Act, 42 U.S.C. § 7411.

11. Under Section 113 (a)(3) of the Act, 42 U.S.C. § 7413 (a)(3), the Administrator of U.S. EPA may issue an order requiring compliance to any person who has violated or is violating a requirement or prohibition of Title V of the Act, or any rule promulgated, issued or approved under Title V of the Act. The Administrator has delegated this authority to the Director of the Air and Radiation Division.

Findings

12. Scott Brass owns and operates a brass manufacturing facility located at 31140 Edison Road, New Carlisle, Indiana 46552, and the facility was constructed in 1997.

13. Scott Brass manufactures brass and copper alloy strip metal.

14. Scott Brass owns and operates two melting furnaces and two holding furnaces, controlled by two baghouses.

15. These four electric induction furnaces were installed on September 8, 1997. The melting furnaces have an approximate capacity of 13,000 pounds each. The holding furnaces have an approximate capacity of 8,000 pounds each.

16. Each of the four electric induction furnaces is subject to the NSPS for secondary brass and bronze production plants, because each furnace, with a capacity greater than 2,205 pounds, was constructed after June 11, 1973.

17. Therefore, U.S. EPA alleges Scott Brass was required to submit a complete Title V permit application to the State of Indiana no later than September 8, 1997.

18. To date, Scott Brass has not submitted a complete Title V permit application to the State of Indiana.

19. Therefore, U.S. EPA alleges Scott Brass' failure to submit a timely and complete Title V permit application to the State of Indiana constitutes a violation of Section 503 of the Act, the regulations at 40 C.F.R. § 70.5(a) and 326 IAC 2-7-4.

20. Therefore, U.S. EPA alleges Scott Brass' operation without a Title V operating permit issued by the State of Indiana constitutes a violation of section 502 of the Act, 40 C.F.R. §§ 70.1(b) and 70.7(b), and 326 IAC 2-7-2(a) and 2-7-3.

21. On August 30, 2005, U.S. EPA issued to Scott Brass a finding of violation alleging that Scott Brass violated 326 IAC 2-7-2(a)(2) by not applying for a Part 70 permit.

22. On September 28, 2005, representatives of Scott Brass and U.S. EPA participated in a conference pursuant to section 113 (a)(4) of the Act, 42 U.S.C. § 7413(a)(4), to discuss the August 30, 2005, finding of violation.

Compliance Program

23. The Parties agree Scott Brass will submit to the Indiana Department of Environmental Management a complete Part 70 permit application within 180 days of the effective date of this Order to demonstrate compliance with 326 IAC 2-7-2(a), 2-7-3, and 2-7-4, and with this Order, and to resolve this matter without resort to adjudication.

General Provisions

24. This Order does not affect Scott Brass' responsibility to comply with other local, state, and federal laws and regulations.

25. This Order does not restrict U.S. EPA's authority to enforce the Indiana SIP, or any section of the Act.

26. Nothing in this Order limits U.S. EPA's authority to seek appropriate relief, including penalties under Section 113 of the Act, 42 U.S.C. § 7413, for any violation of Title V or the Indiana SIP by Scott Brass other than the violation alleged in this Order.

27. Failure to comply with this Order may subject Scott Brass to penalties of up to \$32,500 per day for each violation under Section 113 of the Act, 42 U.S.C. § 7413, and 69 Fed. Reg. 7121 (Feb. 13, 2004) (amending 40 C.F.R. Part 19).

28. The terms of this Order are binding on Scott Brass, its assignees and successors. Scott Brass must give notice of this Order to any successors in interest, prior to transferring ownership, and must simultaneously verify to U.S. EPA, that Scott Brass has given the notice.


29. This Order is not subject to the Paperwork Reduction Act, 44 U.S.C. § 3501 et seq., because it seeks collection of information by an agency from specific individuals or entities as part of an administrative action or investigation. To aid in our electronic record keeping efforts, please provide your response to this Order without staples. Paper clips, binder clips, and 3-ring binders are acceptable.

30. U.S. EPA may use any information submitted under this Order in an administrative, civil or criminal action, subject to any statutory, regulatory or common law defenses of Scott Brass.

31. Scott Brass agrees to the terms of this Order.

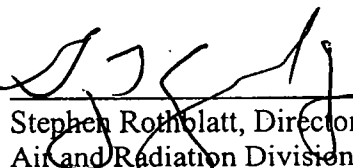
32. This Order is effective on the date of signature by the Director of the Air and Radiation Division. This Order will terminate two years from the effective date, provided that Scott Brass has complied with all terms of the Order throughout its duration.

3.29.07
Date



Barry S. Golden, President
Scott Brass, Inc.

4/13/07
Date

 ALTMG

Stephen Rothblatt, Director
Air and Radiation Division

Enclosure

CERTIFICATE OF FILING AND MAILING

I, Betty Williams, do hereby certify that a Administrative
Consent Order, No. EPA-5-07-113(a)-02-IN, was sent by Certified

Mail, Return Receipt Requested, to:

Judge Carl C. Charneski
Office of Administrative Law Judges
U.S. Environmental Protection Agency
Mail Code 1900L
1200 Pennsylvania Avenue, N.W.
Washington, D.C. 20460-2001


Laurence A. McHugh
Barnes & Thornburg, L.L.P.
600 1ST Source Bank Center
100 N. Michigan Street
South Bend, IN 46601

I also certify that a copy of the Administrative Consent

Order was sent by First Class Mail to:

Craig Henry, Acting Section Chief
Office of Enforcement Air Section
Indiana Department of Environmental Management
100 North Senate Avenue
Indianapolis, Indiana 46206-2251

on the 18th Day of April 2007


Betty Williams, Administrative Program Assistant
AECAS (IL/IN)

CERTIFIED MAIL RECEIPT NUMBER: 7001 0320 0005 8920 2023

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